

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

20-CR-77-A

PAUL E. LUBIENECKI,

Defendant.

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**GOVERNMENT'S MOTION FOR A  
PROTECTIVE ORDER AND ORDER TO SEAL**

**THE UNITED STATES OF AMERICA**, by and through its attorneys, Trini E. Ross, United States Attorney for the Western District of New York, and Aaron J. Mango, Assistant United States Attorney, hereby moves the Court for a Protective Order pursuant to Title 18, United States Code, Section 3771(a)(8) and for an Order permitting the filing of victim impact statements under seal, for the reasons set forth below.

1. On August 3, 2021, Paul E. Lubienecki pled guilty to Count 1 of the Indictment, charging him with a violation of Title 18 United States Code, Section 2261A(2) (stalking). Sentencing is scheduled for November 9, 2021.

2. On November 3, 2021, the government received a victim impact statement from the victim listed in Count 1 of the Indictment, as well as a victim impact statement from the victim's wife and a letter from the victim's mother. The victim requested that the

government file these documents under seal since they contain private information about the victim's family.

3. Pursuant to the Crime Victims' Rights Act, a victim has "the right to be treated with fairness and with respect for the victim's dignity and privacy." 18 U.S.C. § 3771(a)(8). Therefore, because the information submitted to the government by the victim, the victim's wife, and the victim's mother contain private information about the victim's family, the government respectfully requests the Court to seal the victim impact statements from the victim, victim's wife, and victim's mother, and issue a Protective Order, set out below as Exhibit 1, limiting disclosure by the defense

4. It is further requested that the material and copies referenced in Paragraph 2, shall not be disclosed to the media or any other person or entity except to those persons who, by reason of their participation in the proceeding, are entitled. Nothing shall prohibit a party from using the material in connection with the proceedings in this litigation, including appeal or any collateral enforcement proceedings.

5. It is further requested that copies shall not be provided to third parties except those employed or engaged for the purpose of this litigation, who shall also be bound by order of the Court.

6. On November 5, 2021, undersigned counsel spoke with counsel for the defendant, who stated that he has no objection to the government's request.

DATED: Buffalo, New York, November 5, 2021.

TRINI E. ROSS  
United States Attorney

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# **EXHIBIT 1**

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**PROTECTIVE ORDER**

Pursuant to Title 18, United States Code, Section 3771(a)(8), the government has filed a motion requesting that this Court issue a Protective Order permitting the filing of victim impact statements from the victim, victim's wife, and victim's mother and restitution requests under seal. The government has requested a Protective Order limiting the dissemination of the victim impact statements filed in conjunction with the sentencing which is pending in this action.

**NOW**, upon motion of the government, it is hereby

**ORDERED**, that the victim impact statements submitted in the above-referenced case shall be received under seal; and it is further

**ORDERED**, that material and copies referenced described above shall not be disclosed to the media or any other person or entity except to those persons who, by reason of their participation in the proceeding, are entitled. Nothing shall prohibit a party from

using the material in connection with the proceedings in this litigation, including appeal or any collateral enforcement proceedings; and it is further

**ORDERED**, that copies of the above-described materials shall not be provided to third parties except those employed or engaged for the purpose of this litigation, who shall also be bound by order of the Court.

DATED: Buffalo, New York, November \_\_\_\_, 2021.

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HON. RICHARD J. ARCARA  
United States District Court